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OFFICE OF PETITIONS

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In re Application of
Eric S. Yan et al.
Application No. 10/718,844
Filed: November 21, 2003
Attorney Docket No. D-7515

DECISION GRANTING
PETITION

This is a decision on the petition filed March 3, 2004, to establish prior receipt in the USPTO of items considered to be omitted, which is treated under 37 CFR 1.182.

The petition is **GRANTED**.

The application was filed on November 21, 2003. However, on February 20, 2004, the Office of Initial Patent Examination mailed a Notice of Omitted Items, "Notice", stating that the application had been accorded a filing date but that Page 4 of the specification (description and claims) appeared to have been omitted.

In response, on March 3, 2004, page 4 of the specification, the present petition, and a petition fee were filed. Petitioners argue that Page 4 was filed with the other application papers on November 21, 2003. In support, a copy of petitioners' postcard receipt was supplied March 3, 2004 with the instant petition. The postcard receipt shows an Office date stamp of November 21, 2003, and the above-identified application number, and acknowledges receipt of, *inter alia*, 21 pages of specification. Petitioners request that the application, including Page 4 of the specification, be accorded a filing date of November 21, 2003.

A review of the record reveals that no Page 4 of the specification has been located among the application papers deposited on November 21, 2003. However, the evidence is convincing that the application papers deposited on November 21, 2003, included Page 4 of the specification. Therefore, the application, including Page 4 of the specification, is entitled to a filing date of November 21, 2003.

The "Notice" mailed on February 20, 2004, is vacated.

In view of the above, the petition is granted. The petition fee will be refunded to petitioner's deposit account, No. 02-0660 as requested. Additionally, a credit in the amount of \$130.00 will also be made to petitioner's deposit account as an internal error was made charging a duplicate petition fee to that deposit account.

The application will be processed and examined using the copy of Page 4 supplied on March 3, 2004.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of November 21, 2003, using the application papers filed on that date, and the copy of Page 4 of the specification supplied on March 3, 2004.

Telephone inquiries related to this matter should be directed to the undersigned Petitions Attorney at 703-305-4497.

Patricia Faison-Ball
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Office of Petitions